



# FOREIGN AFFAIRS MANUAL

## VOLUME 9 – Visas

**Transmittal Letter:** VISA-177

**Date:** April 30, 1998

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### PARTS 40, 41 AND 42

For those sections in Part 40, this TL amends or adds regulations to Part 40 regarding the grounds of inadmissibility effected by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) enacted on September 30, 1997.

### MAJOR CHANGES

1. 40.11 Regs/Statutes: IIRIRA sec. 341 adds a new ground of inadmissibility for certain aliens who have not been inoculated against certain infectious diseases. [62 FR 67564, Dec. 29, 1997]
2. 40.22 Regs/Statutes: IIRIRA sec. 322 added a new definition of “conviction” and “term of imprisonment”. The new language makes aliens inadmissible if sentenced regardless of any suspension of the new sentence. Thus, paragraph (b) has been removed. [62 FR 67564, Dec. 29, 1997]
3. 40.32 Notes: Major changes have been made throughout the section, including a list of designated terrorist groups.
4. 40.41 Regs/Statutes: IIRIRA sec. 551(c) amends the regulations to reflect new affidavit of support requirements. [62 FR 67563, Dec. 29, 1997]
5. 40.52 Regs/Statutes: An editorial change has been made to change the reference cite to read “INA 203(b)(2) and (3)”. [62 FR 67564, Dec. 29, 1997]
6. 40.61 and 40.62 Regs/Statutes: IIRIRA, principally in sec. 308, replaced several INA terms. For instance, “entry” was changed to “admission,” “excludable” to “inadmissible,” “excludability” to “inadmissibility,” and “deportation” was changed to “removal”. In Sec. 301 of IIRIRA, INA 212(a)(6) was essentially moved to INA 212(a)(9) and new inadmissibility provisions were incorporated into 212(a)(6) for aliens who are in the United States without having been admitted or paroled or who come into the United States at a place other than a designated port of entry. The regulations have been amended accordingly. [62 FR 67564, Dec. 29, 1997]
7. 40.66 Regs/Statutes: The Immigration Act of 1990 provided for a new ground of inadmissibility for aliens who are subject to civil penalties for

violating INA 274C because of document fraud. IIRIRA sec. 345 provides for a waiver of this inadmissibility for certain returning resident aliens and residents who are seeking admission or adjustment as immediate relatives or family-based beneficiaries if the offense was committed solely to assist the alien's spouse or child and no previous civil money penalty was imposed against the alien under INA 274C. The regulations have been amended accordingly. [62 FR 67564, Dec. 29, 1997]

8. 40.67 Regs/Statutes: IIRIRA sec. 346 added a new ground of inadmissibility for certain foreign student visa abusers. Thus, a new regulation has been added. [62 FR 67564, Dec. 29, 1997]
9. 40.68, 41.101 and 41.121 Regs/Statutes: IIRIRA sec. 632 adds a new section 222(g) with respect to the place of application for nonimmigrants who have voided their previous visas by overstaying the authorized period. [63 FR 669, Jan. 7, 1998]
10. 40.91 and 40.92 Regs/Statutes: In accordance with the provisions of IIRIRA sec. 301(b), the regulations at 40.91, 40.92 and 40.93 have been redesignated as 40.101, 40.102 and 40.103 [61 FR 59182, Nov. 21, 1996] and new regulations similar to those in the former 40.61 and 40.62 have been added. The only substantive difference lies in the varying lengths of inadmissibility. [62 FR 67564, Dec. 29, 1997]
11. 40.93 Regs/Statutes: IIRIRA sec. 301 renders inadmissible aliens who have been in the United States unlawfully for an aggregate period of more than one year and who subsequently enter or attempt to enter without being admitted. This section also provides for the United States to obtain the Attorney General's consent to reapply for admission. New regulations have been added accordingly. [62 FR 67565, Dec. 29, 1997]
12. 40.104 Regs/Statutes: IIRIRA sec. 347 provided a new ground of inadmissibility for aliens who have voted in violation of any Federal, state or local constitutional provision, statute, ordinance or regulation. A new regulation has been added. [62 FR 67564, Dec. 29, 1997]
13. 40.105 Regs/Statutes: IIRIRA sec. (a) added a new ground of ineligibility at INA 212(a)(10)(E), which renders ineligible for a visa any alien who has been determined by the Attorney General to have renounced U.S. citizenship to avoid taxation by the United States. [63 FR 669, Jan. 7, 1998]
14. 41.2 Regs/Statutes; 41.32 Regs/Statutes; and 41.33 Regs/Statutes, Notes and Procedural Notes: IIRIRA sec. 104 amended the INA to require Mexican Border Crossing Cards to include a machine-readable biometric identifier and authorized consular officers to issue a combined B-1/B-2 visa and border crossing card (B-1/B-2Visa/BCC). This section also called for the revocation of Canadian BCCs. The regulations at 41.32 are amended

to reflect these changes. Section 41.33, which deals with the issuance of Canadian BCCs, is removed. [63 FR 16892, Apr. 7, 1998]

15. 41.2 Exhibit VI: The country of Slovenia has been added to the list of countries currently participating in the Visa Waiver Pilot Program. [62 FR 51030, Sep. 30, 1997]
16. 41.59 Regs/Statutes: The related statutory provisions have been amended to reflect the final rule on NAFTA. [Added by 58 FR 68526, Dec. 12, 1993 and amended by 63 FR 10304, Mar. 3, 1998]
17. 41.62 Regs/Statutes: IIRIRA sec. 622(c) amended INA 214(l) to limit the number of waivers granted at the request of state agencies to no more than 20.
18. 41.101 Regs/Statutes: IIRIRA sec. 632 added a new INA provision at 222(g) for the automatic voiding of visas upon the expiration of the alien's authorized period of stay in the United States, as well as a requirement that such aliens be limited to subsequent visa applications at the consular office having jurisdiction in (or for) the country of the alien's nationality. Regulations have been so modified and include provisions for exceptions based on extraordinary circumstances.
19. 41.113 Procedural Notes: In PN5.1 the MRV fee has been changed from \$20.00 to \$45.00. In PN5.2, PN6, PN7.1 and PN7.3 all visa classifications have been enclosed in quotes. There is a new PN11, therefore, all the subsequent numbering of procedural notes has been changed.
20. 41.121 Regs/Statutes: 41.121(a) has been amended to add the new provision of INA 222(g) to the list of legal grounds under which an alien may be refused a nonimmigrant visa.
21. 42.32(e) Regs/Statutes: Sec. 619 of Pub. L. 102-395, as amended by Pub. L. 105-119, is added to the Related Statutory Provisions regarding the Pilot Immigration Program. This program involves a regional center in the United States for the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.
22. 42.41 Exhibit III: This exhibit is amended to reflect the most recent list of AABB Accredited Laboratories in the United States.
23. 42.66 Exhibit I: This exhibit is revised to reflect new medical requirements for panel physicians as a result of IIRIRA sec. 341.
24. 42.74 Regs/Statutes: This section has been revised to factor the number of immigrant visas issued to immediate relatives into the annual world-wide limitation on immigration. [63 FR 4393, Jan. 29, 1998]

25. Revisions since the last update appear in italics. The italics will be removed the next time the section is updated. Only the current changes will appear in italics. Italics provide the historical record of changes.
26. Officers are reminded that Department-issued materials not codified in the *Foreign Affairs Manual* or its supplemental *Foreign Affairs Handbook* series generally have no regulatory validity [see 2 FAM 1115.2].

## FILING INSTRUCTIONS

1. Remove Section 40.11 Regs/Statutes (TL:VISA-159; 12-20-96 - 3 pages) and insert the revised identically numbered section.
2. Remove Section 40.22 Regs/Statutes (TL:VISA-159; 12-20-96 - 3 pages) and insert the revised identically numbered section.
3. Remove Section 40.32 Notes (TL:VISA-105; 2-3-95 - 6 pages) and insert the revised identically numbered section.
4. Remove Section 40.41 Regs/Statutes (TL:VISA-85; 10-1-93 - 1 page) and insert the revised identically numbered section.
5. Remove Section 40.52 Regs/Statutes (TL:VISA-168; 08-08-1997 - 2 pages) and insert the revised identically numbered section.
6. Remove Section 40.61 Regs/Statutes (TL:VISA-159; 12-20-96 - 2 pages) and insert the revised identically numbered section.
7. Remove Section 40.62 Regs/Statutes (TL:VISA-159; 12-20-96 - 1 page) and insert the revised identically numbered section.
8. Remove Section 40.66 Regs/Statutes (TL:VISA-159; 12-20-96 - 2 pages) and insert the revised identically numbered section.
9. Remove Section 40.67 Regs/Statutes (TL:VISA-159; 12-20-96 - 1 page) and insert the revised identically numbered section.
10. Insert the new Section 40.68 Regs/Statutes after Section 40.67 Regs/Statutes.
11. Remove Section 40.91 Regs/Statutes (TL:VISA-159; 12-20-96 - 1 page) and insert the revised identically numbered section.
12. Remove Section 40.92 Regs/Statutes (TL:VISA-159; 12-20-96 - 2 pages) and insert the revised identically numbered section.
13. Remove Section 40.93 Regs/Statutes (TL:VISA-159; 12-20-96 - 1 page) and insert the revised identically numbered section.

14. Remove Section 40.104 Regs/Statutes (TL:VISA-159; 12-20-96 – 1 page) and insert the revised identically numbered section.
15. Remove Section 40.105 Regs/Statutes (TL:VISA-155; 10-18-96 – 2 pages) and insert the revised identically numbered section.
16. Remove Section 41.2 Regs/Statutes (TL:VISA-159; 12-20-96 – 11 pages) and insert the revised identically numbered section.
17. Remove Section 41.2 Exhibit VI (TL:VISA-164; 4-25-97 – 1 page) and insert the revised identically numbered exhibit.
18. Remove Section 41.32 Regs/Statutes (TL:VISA-159; 12-20-96 – 5 pages) and insert the revised identically numbered section.
19. Remove and destroy section 41.33 Regs/Statutes (TL:VISA-9; 3-23-88 – 2 pages), 41.33 Notes (TL:VISA-151; 9-5-96 – 1 page), and 41.33 Procedural Notes (TL:VISA-82; 8-6-93 – 1 page). Insert Unassigned for Sections 41.33 through 41.39.
20. Remove Section 41.59 Regs/Statutes (TL:VISA-88; 4-22-94 – 2 pages) and insert the revised identically numbered section.
21. Remove Section 41.62 Regs/Statutes (TL:VISA-173; 11-10-1997 – 6 pages) and insert the revised identically numbered section.
22. Remove Section 41.101 Regs/Statutes (TL:VISA-162; 2-24-97 – 2 pages) and insert the revised identically numbered section.
23. Remove Section 41.113 Procedural Notes (TL:VISA-171; 10-15-1997) and insert the revised identically numbered section.
24. Remove Section 41.121 Regs/Statutes (TL:VISA-168; 08-08-1997 – 5 pages) and insert the revised identically numbered section.
25. Remove Section 42.32(e) Regs/Statutes (TL:VISA-62; 6-10-92 – 2 pages) and insert the revised identically numbered section.
26. Remove Section 42.41 Exhibit III (TL:VISA-170; 10-01-1997 – 11 pages) and insert the revised identically numbered exhibit.
27. Remove Section 42.66 Exhibit I (TL:VISA-32; 5-30-90 – 2 pages) and insert the revised identically numbered exhibit.
28. Remove Section 42.74 Regs/Statutes (TL:VISA-159; 12-20-96 – 3 pages) and insert the revised identically numbered section.

29. After inserting the material in the binder, insert this transmittal letter immediately following the TL Checklist, fill in the entry line for TL:VISA-177, and initial.

## DISTRIBUTION NOTICE

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(CA/VO/L/R)